

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA

ASUSTEK COMPUTER, INC., et al.,

No. C-08-1168 MMC

Plaintiffs,

**ORDER GRANTING PLAINTIFFS'
MOTION TO STAY; VACATING
HEARING; DIRECTIONS TO PARTIES**

v.

INTERNATIONAL BUSINESS MACHINES
CORPORATION,

Defendant

Before the Court is plaintiffs/counter-defendants ASUSTeK Computer, Inc. and ASUS Computer International's (collectively, "ASUS") Motion to Stay, filed April 23, 2009. Defendant/counterclaim-plaintiff International Business Machines Corporation ("IBM") has filed opposition, to which ASUS has replied. Having read and considered the papers submitted in support of and in opposition to the motion, the Court deems the matter suitable for decision thereon, VACATES the hearing scheduled for May 15, 2009, and rules as follows.

For the reasons stated by ASUS, the Court finds a stay of proceedings is appropriate, pending final determination of In the Matter of Certain Computer Products, Computer Components and Products Containing Same, International Trade Commission ("ITC") Investigation No. 337-TA-628, and any appeal to the United States Court of Appeals

1 for the Federal Circuit therefrom. In particular, as ASUS has argued, the very issues of
2 infringement and invalidity presented herein will be decided by the ITC, and the Federal
3 Circuit's determinations on appellate review thereof will be binding in this proceeding.
4 Under such circumstances, this Court's determination of those same issues would be
5 duplicative and a waste of both judicial resources and the resources of the parties. Further,
6 as ASUS has shown, IBM would not be prejudiced by a stay, given that any award of
7 damages IBM may recover on its counterclaims would be available, with interest, after the
8 stay is lifted.¹

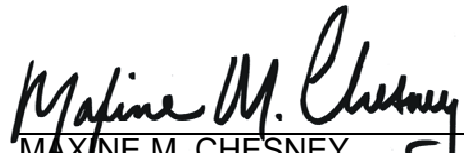
9 Accordingly, the motion is hereby GRANTED, and the instant action is hereby
10 STAYED pending final determination of the above-referenced ITC proceeding and any
11 appeal to the Federal Circuit therefrom.

12 All existing dates and deadlines set in the instant action are hereby VACATED.²

13 The parties are DIRECTED to file, no later than six months from the date of this
14 order, and every six months thereafter, a Joint Status Report informing the Court as to the
15 status of the proceedings before the ITC and/or the Federal Circuit.

16 **IT IS SO ORDERED.**

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18 Dated: May 12, 2009


MAXINE M. CHESNEY
United States District Judge

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26 ¹No injunctive relief is sought herein.

27 ²ASUS's "Objection to April 23 Order," filed May 7, 2009, is hereby DENIED without
28 prejudice to ASUS's renewing the objection no later than five days after the filing of an
order lifting the instant stay of proceedings.